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PROJECT NO. 51840

**RULEMAKING ESTABLISHING
ELECTRIC WEATHERIZATION
STANDARDS**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

**TEXAS COMPETITIVE POWER ADVOCATES (TCPA) RESPONSE TO THE
COMMISSION REQUEST FOR COMMENTS ON WEATHERIZATION STANDARDS**

Texas Competitive Power Advocates (TCPA) is a trade association representing power generation companies and wholesale power marketers with investments in Texas and the Electric Reliability Council of Texas (ERCOT) wholesale electric market. TCPA members¹ and their affiliates provide a wide range of important market functions and services in ERCOT, including the development, operation, and management of power generation assets, the scheduling and marketing of power, the provision of energy management services and the sales of competitive electric service to consumers. TCPA members provide more than sixty percent (60%) of the total net operable electric generating capacity in ERCOT, representing billions of dollars of investment in the state, and employing thousands of Texans.

TCPA appreciates the opportunity to provide comment on the question about under which weather emergency conditions the Commission should require an electric generation service provider to operate its electric generation facilities. While some of our member companies address temperature standards in their individual comments, the majority of member companies are still working with internal experts and hired consultants to ascertain the appropriate measures or process for establishing measures for operating at different extreme temperatures. While TCPA does not offer comment on the issue of temperature standards or how to determine the appropriate process for setting those standards, we reserve the right to provide comment on that in the future. Our initial comments focus on several important issues for successful implementation of

¹ TCPA member companies include: Calpine, EDF Trading North America, Exelon, Luminant, NRG, Shell Energy North America, Talen Energy, Tenaska, and TexGen Power.

weatherization measures and the legislative goal of enhancing the reliability of the ERCOT fleet, not undermining it. These issues include:

- Establishment of a reliability standard,
- Development of preparation measures,
- Cost recovery mechanisms for the weatherization required,
- Recognition of the diversity of the ERCOT fleet, and;
- The necessary timeline for compliance of the adopted measures.

Reliability Standard

SB3 is clear that implementation measures should be based on reliability standards adopted by the Commission. TCPA encourages the Commission to adopt the reliability standard called for by the statute and to factor that into the preparation measures established by the PUCT's rules.

Preparation Measures

TCPA recommends that the Commission adopt preparation measures to be achieved by generation resource owners and operators not a performance standard. SB 3 is specific in requiring the Commission adopt measures for *preparation* and the language used in newly-enacted Texas Utilities Code, Section 35.0021(b), makes clear the expectation that resources be judged based on preparation not performance:

"The commission by rule shall require each provider of electric generation service described by Subsection (a) to implement measures to *prepare* the provider's generation assets to provide adequate electric generation service during a weather emergency *according to reliability standards adopted by the commission.*" (emphasis added)

To ensure compliance with the preparation measures, the rules should require an independent inspection that measures the electric generation owner's satisfaction of the required measures and a sign-off that indicates compliance. For resources that have not undergone the requisite independent inspection, TCPA recommends the rules provide a presumption of compliance until the inspection is completed and an opportunity to remediate any non-compliance findings resulting from the inspection before any administrative penalties

may be assessed. This is consistent with the language in SB 3 creating Section 35.0021(c), Utilities Code, in which the Legislature requires ERCOT to inspect resources for compliance with the reliability standard established under Commission rule and providing a “reasonable period of time in which to remedy any violation” discovered in an inspection.

TCPA expects to provide additional comment regarding preparation measures for extreme winter weather; however, the standards for extreme weather like flooding and hurricanes should be approached in a different manner by Commission rules. During these types of catastrophic events, impacts are typically on a regional basis as opposed to statewide and are more likely to impact portions of the ERCOT generation fleet only in the impacted area. As a result, employee safety is always the first priority in assessing the operational ability of an impacted resource and continued operations will be contingent on the ability to do so without risking the safety and well-being of employees charged with operating that facility. TCPA recommends the rules require the development of disaster preparedness plans which differentiate between such events by electric generation owners. This is an appropriate approach to ensure preparedness while recognizing that operational ability will vary based on the circumstances of a particular event and the ability to maintain employee safety.

Cost Recovery Mechanism

While SB 3 does not provide a specific funding mechanism for cost recovery to comply with weatherization mandates, Governor Abbott was specific in his declaration of this emergency item in asking the Legislature to mandate the winterization of Texas’ power system *and* for the Legislature to ensure the necessary funding for winterization.² The Legislature did not establish a new funding mechanism specific to this mandate, but the Public Utilities Regulatory Act (PURA) provides several funding mechanisms to the Commission that are already available to establish a cost recovery mechanism consistent with the intent expressed by Governor Abbott. PURA 36.001 grants the commission the authority to establish and regulate rates and Subchapter I grants the authority to securitize system restoration costs,

² Press release on February 18, 2021, Office of the Texas Governor, “Governor Abbott Declares Power System Winterization, Related Funding as Emergency Items, Provides Update on Winter Weather Response” (Release attached to comments)

broadly defining what is covered to include electric utility costs associated with the winter storm, including any winterization mandates.

“...system restoration costs shall be functionalized and allocated to customers in the same manner as the corresponding facilities and related expenses are functionalized and allocated in the electric utility's current base rates. For an electric utility operating within the Electric Reliability Council of Texas, system restoration costs that are properly includable in the transmission cost of service mechanism adopted under Section 35.004...”³

TCPA recommends the Commission adopt rules to ensure cost recovery for all entities subject to mandates to winterize existing assets. Cost recovery through ratemaking proceedings enables transmission and distribution utilities, municipally-owned utilities, electric cooperatives, and vertically-integrated utilities in Texas to recover any expenditures resulting from new weatherization mandates from their customers as part of their tariff. Electric generation owners in the ERCOT region are companies that do not have ensured cost recovery of these expenditures since they do not have a captive customer base and must recover all costs through the wholesale market prices. As such, failure to address the funding portion of the Governor’s emergency item will leave electric generation companies in the competitive market with no assured means of recovering expenditures required by these new rules. Facilities that are marginal may become uneconomic as a result, and companies without cost recovery will be forced to decide whether to invest in capital improvements needed to comply with the new mandates or to retire or seasonally mothball those marginal units. TCPA highlighted this concern to the Legislature and state leadership in testimony throughout the 87th regular session as well as in meetings regarding weatherization proposals. The broad authority granted to the Commission provides the latitude to ensure that any weatherization measures adopted do not exacerbate reliability concerns for Texans.

TCPA recommends the Commission rule regarding weatherization establish a cost recovery mechanism, perhaps through a non-bypassable charge specific to expenditures not captured in cost-of-service ratemaking for any entity that has existing facilities subject to new mandates. TCPA believes funding mechanisms should be limited to existing competitive resources since new resources to the market will have knowledge of weatherization requirements

³ PURA §36.403(g)

and should include those costs in any financial proforma to determine the financial viability of investing in new generation facilities.

Diversity of Fleet

The electric generation fleet in Texas is extremely diverse in geographic location, age of resources and length of life, and in fuel type. In addition, the competitive generation assets in ERCOT have diverse attributes within these diversities based on company design decisions at the time of construction and goals for the operation of each resource including but not limited to whether the resource is intended to deliver fast-start capabilities, serve as a black-start resource, produce a particular amount of megawatts during different seasons, and a variety of other considerations resource owners make when determining the investment value of a resource.

Resource-specific characteristics will make the method of compliance and required retrofits different across regions, resource types, and even within each company. Therefore, TCPA recommends the rules address overarching preparation measures while affording generation resources the flexibility to work with engineering, operations, and weatherization experts to determine the appropriate suite of remedies that ERCOT will be able to verify for each resource's compliance with the adopted preparation measures.

Compliance Timeline

TCPA urges the Commission to establish a reasonable timeline for entities to comply with the new weatherization requirements, including the potential for a good-cause extension if needed. Texas has several hundred generation facilities within its borders that will be subject to the new weatherization requirements expected to be delivered this fall. With compressed shoulder maintenance seasons, TCPA cautions that adoption of the rules will likely occur well into the fall maintenance season when outages have been under contract for many months already and some are likely underway. In addition, weatherization of generation facilities is a niche industry with a limited spectrum of qualified contractors to perform the work. Once weatherization preparation measures are adopted, resource owners will need to assess each facility in its fleet to determine the work and components needed for each generation unit to comply with the new measures, receive contractor bids for performance of the work, adjust maintenance outage schedules, and contract for completion of the work.

Generation facilities in ERCOT must schedule maintenance within specified approved outage timeframes and obtain ERCOT approval. As weather patterns and the penetration of intermittent resources on the system have changed, the approved timeframes for generation owners to take resources offline for maintenance work has compressed. TCPA recommends the rules provide timelines for compliance that account for limited contractor availability, potential supply chain issues as the entire generation fleet works to accomplish a preparation measures new to every resource, the need to ensure staggered outages within allowed maintenance periods while providing stable and reliable supply to meet Texans' energy demand, and a goal of achieving accurate, quality compliance as opposed to quick but substandard work. TCPA member companies have already engaged experts to work on complying with new measures but may need to adjust plans of work based on finally-adopted rules. Each year provides two shoulder seasons in which to accomplish planned maintenance which will need to be adjusted and contracted with the potential for schedule changes depending on the type of work needed and contractor availability. TCPA realistically believes multiple seasons of maintenance outages may be necessary to implement changes, and the Commission should account for that in the compliance timelines adopted and include the ability to obtain good-cause extensions if needed to ensure proper compliance.

Conclusion

TCPA appreciates the work being undertaken by the Commission to implement the weatherization provisions contained in SB 3. We will continue to provide additional information to staff and the Commission as our companies gain additional insight from experts and will provide additional comments to coordinate best practices for extreme weather preparedness. TCPA appreciates consideration of the issues addressed in these comments and looks forward to additional work to ensure a reliable generation fleet for Texans.

Dated: June 23, 2021

Respectfully submitted,


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Governor Abbott Declares Power System Winterization, Related Funding As Emergency Items, Provides Update On Winter Weather Response ()

Governor Abbott Declares Power System Winterization, Related Funding As Emergency Items, Provides Update On Winter Weather Response

February 18, 2021 | Austin, Texas | [Press Release](#)

Governor Greg Abbott today provided an update on the state's response to winter weather and power outages. As part of his update, the Governor declared a new emergency item for this legislative session. The Governor is asking the Legislature to mandate the winterization of Texas' power system and for the Legislature to ensure the necessary funding for winterization.

In addition, the Governor announced he is requesting a Major Disaster Declaration — which includes Individual Assistance, Public Assistance, and the Hazard Mitigation Grant Program — from the White House. This declaration will allow eligible Texans to apply for assistance to help address broken pipes and related property damage. The Governor previously requested a Federal Emergency Declaration from the White House which was granted on Sunday.

Power has been restored to nearly 2 million homes across Texas since yesterday's briefing. This number continues to climb, and there are no more outages due to a lack of generation. Every available repair truck in Texas has been dispatched to

address downed power lines that are causing continued outages. Earlier today, the Governor held calls with power and water providers to develop strategies that will increase access to additional power, as well as restore water and expedite additional clean water in communities across the state.

The state is also working to distribute food, water, generators, and additional supplies to Texas communities. Additionally, more warming centers continue to be established every day. For winter weather resources, including a map of warming centers and ways to help Texans in need, visit:
<https://open.texas.gov/winter>

"The past several days have been beyond challenging, but with every passing hour we are restoring power and water for families across Texas," said Governor Abbott. "We are doing all we can to make it through this challenge, and the state continues to deploy resources and personnel throughout the state. I want to thank the men and women who are working around the clock in harsh conditions to get the power up and running again, and I ask all Texans to keep them in their prayers. Texans should continue to take proper precautions and follow local guidance to stay safe and warm. We will get through this together."

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